



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

5147

Testimony of Thomas R. Sullivan
Commissioner of the Connecticut Insurance Department
Before the
Insurance and Real Estate Committee
February 16th, 2010
House Bill 5147--An Act Concerning Surety Bail Bond Agents and Professional
Bondsmen

House Bill 5147--An Act Concerning Surety Bail Bond Agents and Professional Bondsmen reflects many of the provisions that personnel from the Connecticut Insurance Department negotiated in good faith with Co-Chairman Fontana and other interested legislators. The Department appreciates the opportunity to testify in favor those components of HB 5147 that provide the Connecticut Insurance Department with additional regulatory authority over the surety bail bond industry. The components of HB 5147 that impact professional bail bondsmen come under the authority of the Department of Public Safety and, therefore, we will not offer testimony on those provisions.

Many are surprised to learn that the Insurance Department regulates a large contingent of bail bond agents. Currently, there are 526 bail bond agents in Connecticut and another 138 bail bond agencies. When I first came to the Insurance Department approximately 3 years ago, I was surprised to learn of the time and effort spent by my staff to regulate these agents. I was also surprised to learn the extent to which the Department lacked the requisite statutory authority to regulate them effectively and the repeated failed attempts seek appropriate legislation. However, absent this needed authority, I am pleased that the Department has been successful in taking the following bail bond enforcement actions since January of 2009: 9 Fines totaling \$16,300; 8 license revocations; 2 license suspensions; 2 license probations and close to \$110,000 recovered on behalf of consumers. While the Department remains vigilant in its enforcement efforts, deep concerns remain.

Last year, the Department proposed comprehensive legislation to regulate surety bail bond agents – House Bill 6354. Though we were pleased that the legislation last year received a joint favorable report of the Insurance and Real Estate Committee and the Judiciary Committee, it died on the House calendar at the end of the session with a number of other good bills. Nevertheless, the legislation last year reflected appropriate compromise and consensus among the Insurance Department, stakeholders and interested legislators. In this regard, I would like to take this opportunity to thank you, Rep.

Fontana, for the time and energy you devoted last year to facilitate negotiations on bail bond reform.

I am confident that those legislators who sincerely seek to improve the regulation of the bail bond industry in this state will honor the compromise and consensus agreement embedded in a portion of this legislation so that we may move forward in its timely passage. Representative Fontana, I know you will work hard to make this happen and I look forward to your continued leadership role to ensure that needed bail bond reform finally becomes a reality.

Portions of HB 5147 reflect the agreement that was reached last session and includes the following substantive provisions.

The proposal requires bail bond agents to charge the full premium and directly addresses a practice known as “undercutting”, which occur when bail bond agents attempt to compete for business by discounting the premium due on a bond and do not charge their clients the amount they are statutorily required to charge them. This unlawful behavior allows defendants to post bond at rates lower than what the state requires. For example, bail set by a judge at \$10,000, has a premium of \$1000 that must be paid by the defendant. In some instances, in order to get business from a client, a bail bondsman will charge an \$800 premium (instead of \$1000) for the same bond. This is commonly referred to as “undercutting” and it is illegal. The negotiated language allows the use of payment plans that would allow defendants to pay any amount due on a bond in installments within 15 months. Any payment plan, however, would require that defendants provide a down payment of no less than a 35% of the total premium on a bond.

Second, this proposal establishes standards for solicitation, record retention, reporting requirements, and accounting for premiums that allow for strong regulatory oversight by the Insurance Department. Further, these provisions establish uniform standards of record retention to ensure that the Insurance Department has access to tangible records when conducting market conduct examinations of bail bond agents. These standards will provide much needed transparency in an industry that currently has virtually none. Such transparency will be enhanced by posting the results of market conduct examinations on the Department’s website for public inspection.

To guarantee that the Department has adequate resources a funding mechanism is included within this bill that will enable the department to conduct market conduct examinations of the bail bond industry. While this funding mechanism varies from the bail bond reform proposal that we have asked this Committee to raise, it is reflective of the discussions that were held in 2009.

To prevent the kind of disruptive behavior that currently occurs from time to time because of the conduct of certain surety bail bond agents, this initiative also prohibits both bail bond agents and professional bail bondsmen from soliciting business inside courthouses, police stations, correctional institutions, community correctional centers and detention facilities.

Other provisions in this negotiated package include:

Establishing standards for bail bond agent licensure and company appointments;

Requiring surety companies to conduct audits of bail bond agents to ensure that they receive full payment when posting bail bonds;

Requiring surety companies to certify the integrity of the bail bond agents and to assume full responsibility for the acts and conduct of their appointed agents;

Establishing standards for the return of collateral to defendants;

Requiring bail bond agents to swear under oath that they have charged the state approved premium;

Prohibiting bail bond agents from rebating law enforcement and other officials to secure a bond; and,

Prohibiting bail bond agents from executing a bond without the defendant's knowledge or consent.

In the end, if these reforms are enacted, the Insurance Department will have the tools needed to regulate bail bond agents in a manner that protects the public from potentially dangerous criminals who, under the current system that lacks adequate safeguards to prevent surety bail bond agents from discounting the premium on bonds, may not have sufficient financial exposure when they post bail and, as such, compromise the integrity of the bail bond system in Connecticut.

Reform of the bail bond industry is needed and long overdue. I urge you to support this important agreement.

Thank you for the opportunity to testify on House Bill 5147--An Act Concerning Surety Bail Bond Agents and Professional Bondsmen.